

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION

JUSTIN E. HAND

PLAINTIFF

VERSUS

CIVIL ACTION NO. 1:14cv293-HSO-RHW

CHRISTOPHER EPPS, *et al.*

DEFENDANTS

**ORDER ADOPTING MAGISTRATE JUDGE'S PROPOSED
FINDINGS OF FACT AND RECOMMENDATION AND
DISMISSING CASE WITHOUT PREJUDICE FOR FAILURE
TO EXHAUST ADMINISTRATIVE REMEDIES**

This matter comes before the Court on the Proposed Findings of Fact and Recommendation [36] of United States Magistrate Judge Robert H. Walker, entered in this case on January 16, 2015. The Magistrate Judge reviewed the pleadings on file, including Plaintiff Justin E. Hand's [1] Complaint, Plaintiff's [26] Motion to Amend his Complaint, Defendants' Motion to Dismiss [30], and related filings. Based upon his review of these pleadings and relevant legal authority, the Magistrate Judge recommended that Defendants' Motion to Dismiss [30] be granted and that this case be dismissed without prejudice for Plaintiff's failure to exhaust administrative remedies. Proposed Findings of Fact and Recommendation [36] at 3.

The Proposed Findings of Fact and Recommendation [36] was mailed to Plaintiff on January 16, 2015, via certified mail return receipt requested. An acknowledgment of receipt [37], dated January 20, 2015, was received by the Clerk of Court and filed into the record on January 22, 2015. Any objection to the

Magistrate Judge's Proposed Findings of Fact and Recommendation [36] was due within fourteen (14) days of service. L.U. Civ. R. 72(a)(3). To date, Plaintiff has not filed any objection to the Magistrate Judge's Proposed Findings of Fact and Recommendation [36].

Where no party has objected to the Magistrate Judge's Report and Recommendation, the Court need not conduct a *de novo* review of it. 28 U.S.C. § 636(b)(1) ("a judge of the court shall make a de novo determination of those portions of the report or specified proposed findings and recommendations to which objection is made"). In such cases, the Court applies the "clearly erroneous, abuse of discretion and contrary to law" standard of review. *United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir. 1989).

Having conducted the required review, the Court concludes that the Magistrate Judge's findings are not clearly erroneous, nor are they an abuse of discretion or contrary to law. For the foregoing reasons, the Court will adopt the Magistrate Judge's Proposed Findings of Fact and Recommendation [36] as the opinion of this Court. Defendants' Motion to Dismiss [36] will be granted, and this civil action will be dismissed without prejudice for Plaintiff's failure to exhaust administrative remedies.

IT IS, THEREFORE, ORDERED AND ADJUDGED that, the Proposed Findings of Fact and Recommendation [36] of Magistrate Judge Robert H. Walker, entered on January 16, 2015, is adopted in its entirety as the finding of this Court.

IT IS, FURTHER, ORDERED AND ADJUDGED that, Defendants' [30] Motion to Dismiss is **GRANTED**, and this civil action is **DISMISSED WITHOUT PREJUDICE** for Plaintiff's failure to exhaust administrative remedies. A separate final judgment will be entered pursuant to Federal Rule of Civil Procedure 58.

SO ORDERED AND ADJUDGED, this the 9th day of February, 2015.

s/ Halil Suleyman Ozerdem
HALIL SULEYMAN OZERDEN
UNITED STATES DISTRICT JUDGE